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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,219	10/13/2004	Martin Lechner	LECHNER M 2 PCT	2114
25889	7590	02/03/2006	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			KWON, JOHN	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/511,219	<b>Applicant(s)</b> LECHNER, MARTIN	
	<b>Examiner</b> John T. Kwon	<b>Art Unit</b> 3747	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/04; 11/05</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morikawa (US 4 545 347) in view of Davis (US 5 105 784). Morikawa discloses an internal combustion engine, comprising a working space controlled by main valves (12), a charge channel leading to at least one of the main valves, a region of the charge channel divided into at least two parallel charge channel paths (8, 4), and at least one additional valve (10, 11, 15) controlling that portion of the charge volume flow in each of the two parallel charge channel paths. However, Morikawa does not show the use of a rotary slide valve. Davis shows that the use of a rotary slide valve is old and well known in the art. Since the prior art references art from the same field of endeavor, the purpose disclosed by Davis would have been recognized in the pertinent art of Morikawa. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the device of Morikawa with the rotary slide valve as taught by Davis. Regarding the provision of more than one sliding valve, it is a duplication of a known parts for its known functions.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morikawa (US 4 545 347) in view of Hitomi (US 4 738 233). Morikawa discloses an internal combustion engine, comprising a working space controlled by main valves (12), a charge channel leading to

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at least one of the main valves, a region of the charge channel divided into at least two parallel charge channel paths (8, 4), and at least one additional valve (10, 11, 15) controlling that portion of the charge volume flow in each of the two parallel charge channel paths. Hitomi shows that the use of a rotary slide valve is old and well known in the art. Since the prior art references art from the same field of endeavor, the purpose disclosed by Hitomi would have been recognized in the pertinent art of Morikawa. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the device of Morikawa with the rotary slide valve as taught by Hitomi. Regarding the provision of more than one sliding valve, it is a duplication of a known part for its known function.

### ***Response to Arguments***

Applicant's arguments filed November 14, 2005 have been fully considered but they are not persuasive. The attorney argues that there is no teaching to replace from a flap valve to a slide valve. The examiner disagrees because there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken, as a whole would suggest to one of ordinary skill in the art. In re Simmon, 174 USPQ 114; In re McLaughlin, 170 USPQ 209. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In re Bozek, 163 USPQ 545. Accordingly, the purpose of using a flap/slide valve is for controlling the volume of the flow since the specification does not provide the unexpected result therefrom.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

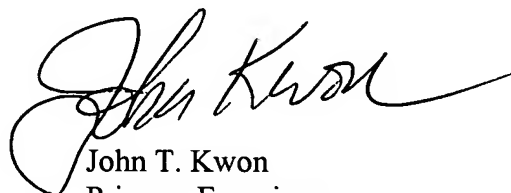
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John T. Kwon whose telephone number is (571) 272-4846. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (571) 272-4856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "John Kwon", with a stylized, flowing script.

John T. Kwon  
Primary Examiner  
Art Unit 3747

January 31, 2006